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F.#2004R01713

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

DANIEL MALANGONE,

Defendant.

TO BE FILED UNDER SEAL

COMPLAINT AND AFFIDAVIT  
IN SUPPORT OF APPLICATION  
FOR ARREST WARRANT

(T., 17 U.S.C., § 506(a);  
18 U.S.C., § 2319)

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EASTERN DISTRICT OF NEW YORK, SS:

LAURA LYONS, being duly sworn, deposes and says that she is a Special Agent of the Federal Bureau of Investigation, duly appointed according to law and acting as such.

Upon information and belief, in or about between January 2004 and April 2004, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant DANIEL MALANGONE did willfully infringe a copyright for purposes of commercial advantage or private financial gain.

(Title 17, United States Code, Section 506(a); Title 18, United States Code, Section 2319)

The source of your deponent's information and the grounds for her belief are as follows:<sup>1/</sup>

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<sup>1/</sup> Because the purpose of this Complaint is to state only probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

1. I have been employed by the Federal Bureau of Investigation ("FBI") for approximately 13 months. For the last 9 months, I have been a member of the Computer Crimes Squad within the FBI, which investigates, among other things, crimes involving intellectual property. My experience as an FBI agent has included the investigation of cases involving the use of computers and the Internet to commit violations of fraud, intrusion and intellectual property laws. I have received training and gained experience in computer crimes, intellectual property and other computer-based crimes, computer evidence identification, and computer evidence seizure and processing, among other things.

2. The information contained in this affidavit is based upon the following: (i) my own investigation, (ii) interviews of the owners of MultiMedia Tutorial Service, Inc. and review of documents provided by them, (iii) review of documents provided by Ebay and America Online ("AOL"), and (iv) my training and experience as a Special Agent with the FBI.

3. MultiMedia Tutorial Services, Inc. ("MultiMedia") is a company that creates and sells educational videos. Their primary product is a math video called "Math Made Easy," which is an instructional video to help individuals learn math. The owners of MultiMedia own the copyright and trademark to Math Made Easy. They sell each video for \$200.00.

4. On or about April 28, 2004, the owners of Multimedia contacted the FBI to report that they believed an employee had duplicated Math Made Easy videos and was selling them for his own gain.

5. In or about May 2004, I interviewed the owners of MultiMedia at their place of business. They informed me that during January of 2004, they traveled out of the country for three weeks. While they were away, an employee named DANIEL MALANGONE, whom they had hired as a salesman in August 2003, assumed more responsibility for the operations of the business. He began doing additional tasks such as making copies of their products. He had keys to the building, and access to all areas of the office.

6. Sometime after the owners' return from their travel, an employee of MultiMedia received a phone call from a customer who stated that he found Math Made Easy selling on Ebay for a cheaper price. The customer provided the seller's contact email address as "vdmath@aol.com."

7. The owners recognized this email address as belonging to their employee, DANIEL MALANGONE. MALANGONE had previously shown the owners his email address and accompanying password. Further, the owners had seen MALANGONE use this email address in the office.

8. I have reviewed records from AOL that show that vdmath@aol.com is one log-in name for an AOL account held by an individual named Anna Donmartin. The owners of MultiMedia informed me that Anna Donmartin is DANIEL MALANGONE's girlfriend.

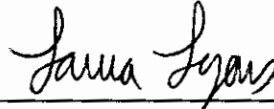
9. I have reviewed records from Ebay that show that the Ebay account that sold the Math Made Easy video is called "mathvid1." Ebay records show that the "mathvid1" account is held by Anna Donmartin at 720 Manhattan Avenue, Brooklyn New York.

10. I have reviewed records from ConEdison that show that DANIEL MALANGONE pays the electricity bills for the residence at 720 Manhattan Avenue, Brooklyn New York. Further, DANIEL MALANGONE's parole officer informed me that she visited MALANGONE at this address on May 5, 2004.

11. In my review of Ebay records, I determined that "mathvid1" sold 250 Math Made Easy videos. Ebay records show that mathvid1 made \$8,852.40 from the sale of these videos.

12. MultiMedia sells the Math Made Easy video for \$200 each. Therefore, the loss to MultiMedia from the unauthorized sale of 250 videos is \$50,000.

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for defendant DANIEL MALANGONE so that he may be dealt with according to law.



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LAURA LYONS  
Special Agent  
Federal Bureau of Investigation

Sworn to before me this  
1<sup>st</sup> day of December, 2004



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ROBERT M. LEVY  
UNITED STATES MAGISTRATE JUDGE  
EASTERN DISTRICT OF NEW YORK